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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 quasar energy group, llc,

10 Plaintiff,

11 v.

12 WOF SW GGP 1 LLC,

13 Defendant.

No. CV-18-2300-PHX-RCC (EJM)

**ORDER**

14 WOF SW GGP 1 LLC,

15 Counter-Plaintiff,

16 v.

17 quasar energy group, llc,

18 Counter-Defendant.

19 quasar energy group, llc,

20 Third-Party Plaintiff,

21 v.

22 Vaughan Co., Inc., *et al.*,

23 Third-Party Defendant.

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25 Currently pending before the Court is Plaintiff/Counter-Defendant quasar energy  
26 group, llc's Motion for Leave to File First Amended Third-Party Complaint *Instantly* (Doc.  
27 120). Plaintiff/Counter-Defendant seeks leave to amend its Third-Party Complaint to  
28 remove Third-Party Defendant Cleveland Plumbing Supply Co. and replace it with Skyline

1 Mechanical Services, Inc. *See id.*, Redline Proposed First Amended Third-Party Complaint  
2 (Exh. “B”). Plaintiff/Counter-Defendant asserts that this amendment is necessary because  
3 of its recent discovery of additional alleged defects not previously claimed by  
4 Defendant/Counter-Plaintiff WOF SW GGP1, LLC. *See id.* at 2. Rule 14(a), Federal Rules  
5 of Civil Procedure, provides that “[a] defending party may, as third-party plaintiff, serve a  
6 summons and complaint on a nonparty who is or may be liable to it for all or part of the  
7 claim against it.” “The crucial characteristic of a Rule 14 claim is that defendant is  
8 attempting to transfer to the third-party defendant the liability asserted against him by the  
9 original plaintiff.” *Stewart v. American Int’l Oil & Gas Co.*, 845 F.2d 196, 200 (9th Cir.  
10 1988) (quoting Wright & Miller, 6 *Fed. Prac. & Proc.* § 1446 at 257 (1971 ed.)). “The  
11 decision to allow a third-party defendant to be impleaded under rule 14 is entrusted to the  
12 sound discretion of the trial court.” *United States v. One 1977 Mercedes Benz*, 708 F.2d  
13 444, 452 (9th Cir. 1983).

14 The Court has reviewed the proposed amendments and notes that claims against all  
15 other Third-Party Defendants remain unchanged. *See id.*, Exh. “B.” An amended  
16 complaint supersedes the original complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262  
17 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir.  
18 1990). After amendment, the Court will treat the original Third-Party Complaint (Doc. 46)  
19 as nonexistent. *Ferdik*, 963 F.2d at 1262. As such, Plaintiff/Counter-Defendant shall be  
20 allowed to amend its Third-Party Complaint (Doc. 46).

21 Accordingly, IT IS HEREBY ORDERED that Plaintiff/Counter-Defendant quasar  
22 energy group, llc’s Motion for Leave to File First Amended Third-Party Complaint  
23 *Instante* (Doc. 120) is GRANTED.

24 IT IS FURTHER ORDERED that Plaintiff/Counter-Defendant quasar energy  
25 group, llc shall file and serve its First Amended Third-Party Complaint within fourteen  
26 (14) days of the date of this Order. *See* LRCiv. 15.1 (a).

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1 IT IS FURTHER ORDERED that all currently pending motions to dismiss filed  
2 against the original Third-Party Complaint (Doc. 46), shall stand as to the First-Amended  
3 Third-Party Complaint, unless notice is otherwise given.

4 Dated this 18th day of October, 2019.

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7 Eric J. Markovich  
8 United States Magistrate Judge  
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